

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

DARETHA BRAZIEL, *et al.*, on behalf of  
herself and all others similarly situated,

Plaintiffs,

v.

THE CITY OF BENTON HARBOR, *et al.*,

Defendants.

Case No. 1:21-cv-00960-HYJ-PJG

Hon. Hala Y. Jarbou  
Hon. Phillip J. Green

**JOINT MOTION TO TEMPORARILY ADJOURN SCHEDULING ORDER**

The parties, by their undersigned counsel, hereby respectfully move this Honorable Court to temporarily adjourn the deadlines in the scheduling order in the above-captioned litigation and set a status conference for June 3, 2025, to discuss the implications of a recent order remanding portions of *Mitchell v. City of Benton Harbor et al.*, 6th Cir. Case No. 23-1970, ECF No. 57, and a pending for declaratory relief in Berrien County Circuit Court. In support of this motion, the parties state as follows:

1. This putative class action lawsuit arises from alleged misconduct, including conduct related to elevated levels of lead in the City of Benton Harbor water system at various times from 2018 to 2021.

2. Two other federal court litigations, and one state court action, have been filed arising out of a common set of facts: *Mitchell, et al. v. Whitmer, et al.*, Case No. 1:22-cv-0475-HYJ, *Grant, et al. v. EPA, et al.*, Case No. 1:22-cv-0186-HYJ, and *Braziel, et al. v. City of Benton Harbor, et al.*, Berrien County Circuit Court, Case No. 23-000249. Following orders on motions

to dismiss, appeals were filed in the Sixth Circuit as to the present Action and the *Mitchell* case; the *Grant* case was not appealed following dismissal.

3. On November 14, 2024, following a remand from the Sixth Circuit in the present Action, this Court entered its Case Management Order (“CMO”). (ECF No. 210). The CMO set the following dates and deadlines:

Trial	Date: Time: Before:	<b>FEBRUARY 23, 2026 9:00 AM Chief Judge Hala Y. Jarbou Lansing, MI</b>
<b>Counsel and the parties shall be present in the courtroom at 8:30 a.m. to address preliminary matters</b>		
Jury or Non-Jury		Jury
Estimated Length of Trial		5 days
Rule 26(a)(1) Disclosures (including lay witnesses)	Plaintiffs: Defendants:	NOVEMBER 19, 2024 NOVEMBER 19, 2024
Disclose Name, Address, Area of Expertise and a short summary of expected testimony of Expert Witnesses (Rule 26(a)(2)(A))	Plaintiffs: Defendants:	APRIL 18, 2025 APRIL 18, 2025
Disclosure of Expert Reports (Rule 26(a)(2)(B))	Plaintiffs: Defendants: Rebuttal Reports:	MAY 16, 2025 MAY 16, 2025 JUNE 16, 2025
Completion of Fact Discovery		JUNE 30, 2025
Expert Deposition Deadline		JULY 30, 2025
Dispositive Motions		AUGUST 15, 2025
Motions for Class Certification Deadline		AUGUST 15, 2025
Interrogatories will be limited to: (Single Part Questions)		25 single part questions

Depositions will be limited to: (Fact Witnesses Per Party)	25 per side
Requests for Admission will be limited to: (Per Side)	25 per side
Requests for Production of Documents will be limited to: (Per Side)	N/A
Motions in Limine	21 days prior to the Final Pretrial Conference
Settlement Conference	None at this time
Final Pretrial Conference	Date: JANUARY 29, 2026 Time: 10:00 AM
<b>Note Preparation Details within this Order</b>	Before: Chief Judge Hala Y. Jarbou
ADR To Take Place On Or Before:	DECEMBER 30, 2024

*Id.*

4. In accordance with the CMO, the parties have exchanged Rule 26(A)(1) disclosures, engaged in fact discovery (including written discovery, document production, third-party discovery, and several witness depositions), and disclosed names and short summaries of expected testimony from experts. The next upcoming deadline is May 16, 2025, for disclosing full expert reports, in connection with which deadline the parties will expend significant resources.

5. Both the parties and third parties have engaged in good faith in discovery efforts, including: 22 subpoenas issued, 4 depositions taken (with several others noticed), and 17,556 documents produced (totaling 87,930 pages).

6. On May 6, 2025, the Sixth Circuit entered an order in the *Mitchell* case, reversing in part this Court and remanding for further proceedings. 6th Cir. Case No. 23-1970, ECF No. 57.

7. Further, the City of Benton Harbor is filing a complaint for declaratory judgment against its insurer, Traveler's Insurance, to determine whether it and the City employees named as defendants in this and the related actions are entitled to any insurance coverage for the claims at issue.

8. In the interest of judicial economy and avoiding undue expense to the parties, the parties stipulate and agree that this Court should temporarily adjourn deadlines in this matter pending an upcoming status conference in the *Mitchell* case, scheduled for June 3, 2025. Case No. 1:22-cv-0475, ECF No. 138.

9. The parties further request that this Court expand the June 3, 2025, status conference to include the present action, to allow discussion of potential economies that can be developed in light of the progress made in discovery in the present action, including potentially entering a unified schedule for the pending cases.

10. “The power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes in its docket with economy of time and effort for itself, for counsel and for litigants, and the entry of such an order ordinarily rests with the sound discretion of the District Court.” *Ohio Envtl. Council v. U.S. Dist. Court*, 565 F.2d 393, 396 (6th Cir. 1977); *see also Clinton v. Jones*, 520 U.S. 681, 706 (1997) (“[T]he District Court has broad discretion to stay proceedings as an incident to its power to control its own docket.”).

11. District courts are not bound by a “mechanical and narrow” test in assessing a motion to stay or to adjourn dates. *See Landis v. N. Am. Co.*, 299 U.S. 248, 255 (1936). Instead, “courts examine the totality of the circumstances, including the stage of the litigation, whether a stay would simplify the issues, and whether a stay would unduly prejudice the non-moving party.” *Attractive Surgical, LLC v. Cleveland Clinic Found.*, No. 1:19-cv-1212, 2019 U.S. Dist. LEXIS 234565 (N.D. Ohio Oct. 31, 2019). Stays “are often issued while the resolution of a related action in another court is pending.” *Doe v. Varsity Brands, LLC*, No. 2:22-cv-02657, 2023 U.S. Dist. LEXIS 72036 (W.D. Tenn. Apr. 25, 2023).

12. In this case, the parties stipulate and agree that temporarily adjourning pending deadlines is appropriate here. At this point, the parties have exchanged Rule 26(A)(1) disclosures, engaged in fact discovery (including written discovery, document production, and witness depositions), and disclosed expert names and summaries of expected expert testimony in accordance with the CMO (ECF No. 210). Both parties agree that the proposed temporary adjournment is appropriate here. And the proposed stay serves the public interest by conserving judicial time and resources.

WHEREFORE, the parties respectfully request that this Honorable Court grant their Joint Motion to Temporarily Adjourn the Scheduling Order and enter an Order temporarily adjourning the CMO dates.

Respectfully submitted,

Dated: May 9, 2025

BODMAN PLC

/s/ Alexandra C. Markel

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Dated: May 9, 2025

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 9, 2025, the foregoing *Joint Motion to Temporarily Adjourn Scheduling Order* was filed with the Clerk of the Court via the Court's e-filing system which will give notice of such filing to all counsel of record.

BODMAN PLC

/s/ Alexandra C. Markel  
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